

August 6, 2018

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: 1316 Providence Road
Forest Conservation Variance
Tracking #03-18-2776

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on July 27, 2018. This request seeks a variance to impact five specimen trees: a 40-inch DBH black oak in poor condition, a 32-inch DBH black oak in good condition, a 32-inch DBH tulip poplar in good condition, a 47-inch DBH chestnut oak in good condition, and a 34.5-inch DBH black oak in poor condition. There is one specimen tree to be retained, a 31-inch DBH chestnut oak in good condition. The potential impacts to the specimen trees result from overlap of the proposed septic reserve areas with significant portions of the trees' critical root zones. No actual removal of specimen trees is proposed at this time.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to subdivide the property into two lots. The existing structures are to remain, and new septic reserve areas for each lot are proposed. The property currently consists of a single lot containing a church with adjacent facilities and a single-family home. The subdivision will allow the church facility and single-family home their own lots. As the property is already functioning as a church and single-family home and no changes in use are proposed, full application of

Mr. John Canoles
1316 Providence Road
Forest Conservation Variance
August 6, 2018
Page 2

the law would not deprive the applicant of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The lot is being subdivided under unique circumstances, as it was originally developed with mixed uses on one lot. The subdivision will allow the residential area and the church to be on separate lots. Impact to the specimen trees is required in order to successfully install new septic reserve areas for each new lot. Therefore, the petitioner's plight is due to unique circumstances and is not associated with general conditions in the neighborhood; thus, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of predominantly medium to high density residential areas, with several other churches present along Providence Road. As there will be little visible change to the subject property and no change in use is proposed, the two-lot subdivision and their required septic reserve areas will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any wetlands, streams, or associated buffer areas. As a result, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The need for a variance does not arise from a condition or circumstance resulting from actions taken by the petitioner, but solely from proposed septic reserve areas to meet County regulations. Specifically, Baltimore County requires distinct septic reserve areas for new lots, and there is no possible septic reserve location that avoids all impact to specimen trees' critical root zones. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Although the critical root zones of five specimen trees are to be impacted, no actual clearing of forest or specimen trees is proposed, and forested area equal to the break-even point is to be retained in a Forest

Mr. John Canoles
1316 Providence Road
Forest Conservation Variance
August 6, 2018
Page 3

Conservation Easement. Therefore, this variance is consistent with the spirit and intent of Article 33 of the Baltimore County Code and this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent on the following conditions:

1. The following note must be on all subsequent plans for this development project:

“A variance was granted on August 6, 2018 by Baltimore County Dept. of Environmental Protection & Sustainability to allow impact to five specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met including payment of a fee in lieu of mitigation for removing the specimen trees.”

2. Mitigation for the removal of three of the five specimen trees is required, given their good or fair condition. Mitigation will be addressed by a payment of a \$3,759.46 fee by November 6, 2018 or prior to EPS approval of the minor subdivision, whichever comes first. Note that no mitigation is required for specimen trees in poor condition.
3. A final forest conservation plan shall be submitted to and approved by EPS staff prior to minor subdivision plan approval.
4. This variance approval does not exempt future development activities at this site or future removal of specimen trees from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

Mr. John Canoles
1316 Providence Road
Forest Conservation Variance
August 6, 2018
Page 4

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/lbe

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name